GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Home Department – A.P. Jail Services – Revision of the seniority list of Deputy Superintendent of Jails (Men) who were recruited through A.P.P.S.C vide Group 1 Services Notification No.21/2003 & 6/2004 in 2007 based on the merit – Orders issued - Regarding.

HOME (PRISONS & FIRE SERVICE) DEPARTMENT

G.O.Ms.No.154

Dated:25-10-2022
Read the following:-

1. Govt. Memo No.1482179/P&F/A1/2021, Home (Prisons & Fire) Department Dated:13.08.2021.
2. From the Director General of Prisons & Correctional Services, Andhra Pradesh, Lr.No.Estt-2/120/2021, Dt:18.10.2021.
3. Govt. Memo No.1455987/P&F/A1/2021, Dated:24.02.2022
4. From the Director General of Prisons & Correctional Services, Andhra Pradesh, Lr.No.Estt-2/120/2021, Dt:19.07.2022.

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ORDER:

Deputy Superintendent of Jails (2007 batch, who were recruited through Andhra Pradesh Public Service Commission vide Group 1 Services Notification No.21/2003 & 6/2004) have submitted representations for rectification and Revision of Inter-se Seniority list.

2. In the Government Memo 1st read above, the Director General of Prisons and Correctional Services, Andhra Pradesh was requested to examine the representations of (i) Sri K.Rajeswara Rao, Superintendent of Jails, Central Prison, Nellore, (ii) Sri N.Muralibabu, D.I.G of Prisons, Hyderabad Range, Telangana and (iii) Sri Y. Rajesh, Inspector General of Prisons (FAC), Telangana State and offer remarks and send comprehensive report on request for rectification and revision of the Inter-se Seniority list of Deputy Superintendent of Jails (Men) who were recruited through A.P.P.S.C vide Group 1 Services Notification No.21/2003 & 6/2004 in 2007. The Director General of Prisons & Correctional Services, Andhra Pradesh has furnished the detailed report vide reference 2nd read above and requested the Government to take necessary action.

3. After examination of the report furnished by Director General of Prisons and Correctional Services, Andhra Pradesh, it is observed that seniority of the direct recruits was fixed in terms of roster points. Government have therefore decided to review the orders issued in O/o DG, Prisons Memo dated 04.11.2009 by affording an opportunity of representation to the affected parties and fix seniority of direct recruits as per their merit ranking assigned by the Andhra Pradesh Public Services Commission. Accordingly, in Government Memo 3rd read above the Director General, Prisons & Correctional Services, Andhra Pradesh was requested to issue notices and obtain objections/representations of the affected officers ((07) Direct Recruits, Deputy Superintendent of Jails of 2007 batch) and furnish the same to Government along with his specific remarks on the said representations/objections of the officers.

4. The Director General of Prisons & Correctional Services, Andhra Pradesh in his letter 4th read above has stated that Sri Y. Rajesh, IG of Prisons, O/o Director General of Prisons and Correctional Services, Telangana State, Hyderabad in his letter Dt:16.04.2022 has requested for extension of time limit for another (4) weeks and the request was considered by the DG, Prisons. Later, the said officer in his letter. Dated:13.05.2022 has again requested O/o Director General of Prisons & Correctional Services, Andhra Pradesh for extension of time limit to submit his objection.

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5. The Director General of Prisons & Correctional Services, Andhra Pradesh has further stated that the remaining (4) officers (the then Deputy Superintendent of Jails) i.e, (i) Sri M. Varaprasad, Presently working as DIG of Prisons, Guntur Range, Guntur (ii) Sri M. R. Ravikiran, Presently working as DIG of Prisons, Kadapa Range, Kadapa (iii) Sri K. Rajeswara Rao Presently working as Superintendent, Central Prison, Nellore and (iv) Sri S. Rahul, Presently working as Superintendent, Central Prison, Visakhapatnam have submitted their objections/representations in this regard. Sri N. Murali Babu, the then Deputy Superintendent of Jails, presently working as DIG of Prisons, Hyderabad Range did not furnish his objections/representation in connection with the said matter, for which it may be construed that he has no objection in connection with reviewing and fixing of their seniority in the category of Deputy Superintendent of Jails (Direct recruits).

6. The Director General of Prisons & Correctional Services, Andhra Pradesh has requested the Government to issue necessary orders for rectification and revision of the inter-se seniority among the said (07) Direct Recruits of 2007 batch.

7 The final seniority list of Deputy Superintendent of Jails (Men) who were selected under Group-I Services vide Notification No. 21/2003 & 6/2004 and appointed as Deputy Superintendents of Jails in Prisons Department, the seniority list of Deputy Superintendent of jails (Men) was confirmed and communicated to them Vide O/o DG, Prisons Memo No.EB3/28/2009, dated 04.11.2009. However, the seniority of direct recruits of Deputy Superintendents of Jails was fixed on the basis of roster points instead of merit ranking as communicated by the Andhra Pradesh Public Service Commission.

8. As per **rule-33(b) and 36(i) of A.P. State & Subordinate Service Rules, 1996,** "the seniority of persons appointed by Direct Recruitment shall be in accordance with ranking assigned by the APPSC or selecting agency only"

9. As per the instructions issued in **Circular Memo No. 16/Ser-A/93-39 GAD** dated **21.4.99** the Inter-se seniority of direct recruits shall be as per the ranking assigned to them by the recruiting agency irrespective of their dates of appointment provided that they all joined within the time allowed for them to join as per Rule 11 of the A.P. State and Subordinate Service Rules. As per the instructions, issued by the Government of India in O.M.No. 20001/1/08 Estt-D dated 11.11.10 the relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection committee senior to those appointed as a result of subsequent selection.

10. The **Andhra Pradesh Public Service Commission**, Hyderabad in their **Circular No.872/2011/S.T.Cell dated 18.06.2011** observed that in view of the Judgments of the Hon'ble High Court of AP and Hon'ble Supreme Court, the APAT has passed orders in O.A.No. 1268/2008 with CA.No. 754/2008 and VMA No. 67/200 to prepare the selection list of the direct recruits on the basis of Merit among the selected Candidates only. The APAT viewed that the words "Satisfying the Rules of Reservation of appointments" in rule 33 (b) of the AP State and Subordinate Rules, should be understood that the roster points have to be taken into consideration to fix the number of vacancies available for them due to reservation and that does not mean that roster points are to be followed for the purpose of seniority. The Seniority list is to be prepared only on the basis of merit among the selected candidates, it should not be on the basis of roster points. Hence the Service Commission has directed all the officers of the recruitment sections to take action accordingly.

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11. The Supreme Court in **Shankarsan Dash vs. Union of India (1991 (3) SCC 47)** held that the state is bound to respect the comparative merit of the candidate as reflected at the recruitment test and no discrimination can be permitted.

12. The Supreme Court in **Bimlesh Tenvar Vs State of Haryana (C.A.No.879/ 2000 dated 10.3.2003)** held that:

> "An affirmative action in terms of Article 16(4) of the Constitution is meant for providing a representation of class of citizenry who are socially or economically backward. Article 16 of the Constitution of India is applicable in the case of an appointment. It does not speak of fixation of seniority. Seniority is, thus, not to be fixed in terms of the roster points. If that is done, the rule of affirmative action would be extended which would strictly not be in consonance of the constitutional schemes."

13. The Supreme Court in **Rajkaran Singh Vs state of Punjab(Civil Appeal No. 4455/2008 dated 16.7.2008)** held that:

> "Pardaman Singh filed a writ petition and in that writ petition the Division Bench of the High Court allowed the writ petition and held that as per the selection committee's recommendation, Pardaman Singh has been placed at S.No:9 in merit and Raj Karan Singh has been placed at S.No.10 in the merit list. Therefore, the Division Bench held that Pardaman Singh who has placed higher in merit by selection committee, should be given seniority above Raj Karan Singh notwithstanding that Raj Karan Singh has been appointed on the first scheduled caste vacancy. The view taken by the Division Bench appears to be just and proper. The incumbent can be appointed against first vacancy but in the same selection if names are arranged according to merit then person higher in merit cannot be lowered down in seniority. The view taken by the High Court, in our opinion, appears to be just and proper."

14. In **Victoria Devakumari v/s Commissioner and Director of School Education, Andhra Pradesh (W.P.No.12237 and 12238/2001**, dated:28.06.2001), the Hon'ble High Court of A.P has held:

> "Reservation policy of the State in terms of Rule 22 of the General Rules will have no bearing for preparation of Seniority list, is no longer res-integra".

15. In view of the above rule position and observations of the Hon'ble Supreme Court and Hon'ble High court, the seniority of direct recruits has to be fixed as per the merit ranking assigned by the selection committee but not in terms of the roster points.

16. Sri Y.Rajesh, Inspector General of Prisons, O/o D.G of Prisons and Correctional Services, Telangana State, Hyderabad, has also submitted a representation on the issue subsequently. The main crux of the reply submitted by Sri Y. Rajesh, is that the fixed seniority cannot be disturbed. This is the settled Law as per the various Judgements of Hon'ble Supreme Court and Hon'ble High Court that settled seniority cannot be disturbed.

17. However the present case of the other officers of 2007 batch who submitted representations to consider revision of seniority, is also based on one primary fact that the seniority of 2007 Batch Deputy Superintendent of Jails is not a settled issue. There is ongoing litigation in Hon'ble High Court of Telangana with regard to seniority issues between the direct recruits and promotees. The present case of revision of Seniority confines itself to the Inter-se seniority among the direct recruits of 2007 batch. Since the issue of Seniority is still not settled, the contention raised by Sri Y.Rajesh does not hold ground and therefore the revision of seniority is considered.

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18. Government after careful examination of the report/remarks of the Director General of Prisons & Correctional Services, Andhra Pradesh and in view of the above rule position and observations of the Hon'ble Supreme Court and Hon'ble High Court, have decided for rectification of the Inter-se seniority among the below mentioned (07) Direct Recruits of 2007 batch. Accordingly it is hereby ordered for revision of the Inter-se seniority of Deputy Superintendent of Jails (Men) who were recruited vide A.P.P.S.C. Group I Services Notification No. 21/2003 & 6/2004 in 2007 as mentioned hereunder basing on their merit / marks secured in Andhra Pradesh Public Service Commission as per letter of Additional Secretary, APPSC, Vijayawada vide letter No. 541/Rs-29/2018, dt. 05.07.2021 and as per the rule 33 (b) of Andhra Pradesh State and Subordinate Services Rules, 1996.

Sl. No.	Regd.No.	Name of the Direct Recruitee S/Sri	Merit/Marks
1	12231447	M.Vara Prasad	84/653
2	11005332	M.R.Ravi Kiran	93/652
3	10300512	K.Rajeswara Rao	102/649
4	12202133	R.Giridhar (left the Dept.)	103/649
5	11800348	N.Murali Babu	122/644
6	11004504	Y.Rajesh	312/618
7	12215760	S.Rahul	322/616.5
8	12235689	Suchindar Busi (Not joined)	333/615

19. The Director General of Prisons & Correctional Services, Andhra Pradesh, Mangalagiri is requested to take necessary follow up action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

HARISH KUMAR GUPTA,
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner, Printing, Stationery & Stores Purchase, Mutyalampadu, Vijayawada. He is requested to publish the G.O. in the Extraordinary Gazette and send (10) Copies to the Government.
The Director General of Prisons and Correctional Services, Andhra Pradesh, Mangalagiri.
The Individuals 'thro' the Director General of Prisons & Correctional Services, Andhra Pradesh, Mangalagiri.
The Principal Secretary to Government, Home Department, Government of Telangana State, Hyderabad.
The Director General, Prisons & Correctional Services, Telangana State, Hyderabad.
P.S. to Hon'ble Minister (Home), Andhra Pradesh.
P.S. to Principal Secretary to Government, Home Department, Andhra Pradesh.
SF/SC.

//FORWARDED::BY ORDER//

//Attested//

SECTION OFFICER

SECTION OFFICER
HOME (P&P) DEPT.
A.P. SECRETARIAT